

**BILLING CODE: 4410-02**

**COMPACT COUNCIL**

**NATIONAL CRIME PREVENTION AND PRIVACY COMPACT**

**28 CFR Part 9**

**[NCPPC 101-F]**

**RIN**

**Criminal History Record Screening for Authorized  
Noncriminal Justice Purposes**

**AGENCY:** National Crime Prevention and Privacy Compact  
Council.

**ACTION:** Final rule.

**SUMMARY:** The Compact Council, established pursuant to the National Crime Prevention and Privacy Compact (Compact), is publishing a rule to establish criminal history record screening standards for criminal history record information received from the Interstate Identification Index (III) for authorized noncriminal justice purposes by any state.

**NOTICE OF THE EFFECTIVE DATE:** This rule is ~~These procedures~~ ~~are effective immediately~~ (insert date 30 days after date of publication).

**FOR FURTHER INFORMATION CONTACT:** Mr. Wilbur Rehmann,  
Compact Council Chairman, Montana Department of Justice,  
303 North Roberts, 4th Floor, Post Office Box 201406,  
Helena, Montana 59620-1406, telephone number (406) 444-  
6194.

**SUPPLEMENTARY INFORMATION:**

The Compact establishes uniform standards and processes for the interstate and federal-state exchange of criminal history records for noncriminal justice purposes. The Compact was approved by the Congress on October 9, 1998, and became effective on April 28, 1999 when ratified by the second state.

The Compact Council is composed of 15 members (with a minimum of 11 state and local governmental representatives), and is authorized by the Compact to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes. Such rules and procedures are required by the Compact to be published in the Federal Register. See Title 42 United States Code (U.S.C.) Section 14616, Articles II(4) and VI(a)(1) and (e). This publication complies with that directive.

Background:

The Compact requires that each Party State shall appoint a Compact officer who shall regulate the in-state use of records received by means of the III system from the FBI or from other Party States. The Compact requires that the FBI modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V of the Compact. Any record obtained under the Compact may be used only for the official purposes for which the record was requested. In order to implement this provision ~~accomplish this~~, the Compact

Council is authorized to ~~shall~~ establish rules, procedures, and standards consistent with the Compact which shall protect the accuracy and privacy of the records and ensure that only legally authorized records are used for particular noncriminal justice purposes.

This rule (28 CFR §904.3) provides that ~~the~~ any state receiving ~~the~~ criminal history records by means of the III System for an authorized noncriminal justice purpose shall screen the record according to any state statute, executive order, or state attorney general formal determination providing specific record screening guidance, concerning records received from other states or the FBI. ~~or, a~~ Absent such guidance, the state shall screen the record in the same manner in which it ~~the state~~ screens its own records for noncriminal justice purposes.

For the reasons stated above, and by the authority vested in the Compact Council by the Compact, Title 28 of the Code of Federal Regulations, Chapter IX is amended by adding a new Part 904 to read as follows:

**PART 904 -- STATE CRIMINAL HISTORY RECORD SCREENING**  
**~~STANDARDS OF RECORDS RECEIVED FOR AUTHORIZED NONCRIMINAL~~**  
**~~JUSTICE PURPOSES~~**

Sec.

904.1 Purpose and authority.

904.2 Interpretation of the record screening requirement.

904.3 State ~~C~~riminal history record screening standards ~~for authorized noncriminal justice purposes.~~

#### **§904.1 Purpose and authority.**

Pursuant to the National Crime Prevention and Privacy Compact (Compact), Title 42, U.S.C., Chapter 140, Subchapter II, Section 14616, Article IV (c)(3), the Compact Council hereby establishes record screening standards for criminal history record information received by means of the III System by party and non-party states for noncriminal justice purposes.

#### **§ 904.2 Interpretation of the criminal history record**

Pursuant to 42 U.S.C. § 14616, Article III(b)(1)(C), the Compact requires that each party state shall appoint a Compact officer who shall regulate the in-state use of records received by means of the III System from the FBI or from other party states. Compact Article IV, (c)(3), provides that any record obtained under the Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with the Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

**§ 904.3 State Criminal history record screening  
standards ~~for authorized noncriminal justice purposes.~~**

The following record screening standards relate to criminal history record information received for noncriminal justice purposes as a result of a national search ***utilizing the III System.***

(a) The state receiving the record ~~determines~~ will screen the record to determine what information ~~is to be~~ may legally be disseminated for the authorized purpose for which the record was requested. Screening will be conducted pursuant to the receiving state's applicable statute, executive order or state attorney general formal determination.

~ (b) The **State Criminal History Record Repository** ~~State Identification Bureau or a designated qualified government entity~~ an authorized agency in the receiving state will complete the record screening for all noncriminal justice purposes.

~~3.0 As a general rule, a state will follow its state statutes relevant to record screening.~~

(c) The state receiving the record may, at its discretion, **decide whether** ~~interpret if~~ that state's statute, executive order, or state attorney general formal determination provides specific record screening guidance **concerning records received by means of the III System from the FBI or other states.** ~~That being the case~~ **If such guidance exists,** the record screening and dissemination **shall** ~~is to~~ be based on the statute, executive order, or state attorney general formal determination.

(d) If the record receiving state's laws are silent on the screening of criminal history record information from a national search and absent an executive order or formal determination by the state attorney general, then the record is to be screened in the same manner ~~as that state's own record~~ in which the state screens its own records for noncriminal justice purposes.

Dated: \_\_\_\_\_

---

Wilbur Rehmann

Compact Council Chairman